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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,576	08/22/2003	Harry M. Haytayan	HMH-94	9541
7590	07/15/2004		EXAMINER	
Nicholas A. Pandiscio Pandiscio & Pandiscio, P.C. 470 Totten Pond Road Waltham, MA 02451-1914			CHUKWURAH, NATHANIEL C	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/646,576	HAYTAYAN, HARRY M. <i>CL</i>	
	Examiner	Art Unit	
	Nathaniel C. Chukwurah	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 June 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 18-23 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/12/2004</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Applicant's election with traverse of claims 1-17 in the reply filed on 6/8/2004 is acknowledged. The traversal is on the ground(s) that the poppet valve member defined by claim 18-23 is an essential aspect of the apparatus defined by claims 1-17. This is not found persuasive because pneumatic fastening tool and poppet valve have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

Claims 8 and 17 are objected to because of the following informalities: In claims 8 and 17, on lines 3 and 2, double period appeared at end of both claims. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haytayan (US 4,346,831) in view of Jankel (US 5,485,946).

Haytayan discloses a pneumatic tool (100) comprising: a piston (124) disposed in a cylinder (120), a hammer (126), a poppet valve (118), a cap member (110), a vent valve (119) in the form of post, a buffer means (184). Although Haytayan's buffer means is not fixed to the

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proximal end surface, Jankel discloses similar tool including a buffer means fixed to the proximal end surface of poppet valve (28 control piston). In view the teachings of Jankel, it would have been obvious to one skilled in the art to provide the tool of Haytayan with a buffer means fixed to the proximal end surface of poppet valve in order to protect and minimize tool wear.

Regarding claim 2, Haytayan shows that buffer means (184 annular ring) is molded to the poppet valve member (118) (note col. 5, lines 11-12).

Regarding claim 4, see rejection of claim 2 above.

Regarding claim 6, Haytayan shows poppet valve including inner surface deemed made of metal steel and buffer means (184 resilient material) comprising of polymer (note col. 5, lines 12-13).

Regarding claim 7, Haytayan is silent about a polymer comprising polyethylene. However, it would have been obvious to one skilled in the art to include polyethylene resilient material since Haytayan teaches other polymers as in column 5, lines 12-13.

Regarding claim 8, Haytayan is silent about the hardness of the polymer. However, it would have been obvious to one skilled in the art to include polymer of about 95 durometer in order to minimize wear.

Regarding claims 9 and 10, Haytayan shows that the buffer means disposed as annular ring is provided with at least one groove (space containing the resilient material 184).

Regarding claims 11 and 12, shows poppet valve member (118) has a distal end surface having an elastomeric element (184) molded onto valve member second surface.

Regarding claim 14, see rejection of claim 7 above.

Regarding claims 15,16 and 17, Haytayan shows a poppet valve including a center post extending proximally (portion projecting from valve) and a casing end surface provided with a resilient buffer member (192) extending proximally.

Regarding claims 3, 5, 10 and 13, the examiner takes Official Notice that fasteners are known to be used in securing tool parts.

Conclusion

Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathaniel C. Chukwurah whose telephone number is (703) 308-6385. The examiner can normally be reached on M-F 6:00AM-2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (703) 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nc



EUGENE KIM
PRIMARY EXAMINER